



2023 Legislative Session Major Law Changes

(All laws are effective July 1, 2023, unless indicated otherwise)

<p>Alcohol, Common Consumption Areas Effective 7/1/23 HB2059 §7</p>	<p>Existing law allowing Common Consumption Areas is amended by making the requirement to block vehicular traffic from the roadway within a common consumption area an option instead of a requirement. The statute is also amended to require signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.</p>
<p>Burglary Effective 7/1/23 SB174 §4</p>	<p>The burglary statute is amended by adding “domestic battery” and “violation of a protection order” to the list of intended crimes within the protected structure or vehicle. It covers “protection orders” of all types but does not include “restraining orders.” There is no change to the other elements of the crime and no changes to sentencing.</p>
<p>Catalytic Converter Effective 7/1/23 HB2326</p>	<p>The Scrap Metal Act was amended by adding catalytic converters to the definition to make it clear catalytic converters are covered in the act. Catalytic converters are also defined in the act as, “a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.” The law was also amended to prohibit scrap metal dealers from purchasing any by-product or dust containing platinum, palladium or rhodium, or a catalytic converter that has: 1) A defaced identification mark or owner-applied paint or identification number; or 2) been intentionally altered by removing or obliterating the make, model or manufacturer's number. These restrictions will still allow legitimate auto repair businesses to sell such catalytic converters they replace to scrap dealers.</p>
<p>Child Abuse or Neglect Investigations Effective 5/41/23 HB2024 §1, 5, 6</p>	<p>Continuing law requires, as part of any investigation of reports of child abuse or neglect, the DCF employee or the investigating law enforcement agency to visually observe the child who is the alleged victim of abuse or neglect.</p> <p>New law creates a CARE (Child Abuse Review and Evaluation) referral process. This referral process is described as “a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.”</p> <p>This is accomplished through CARE providers identified by KDHE. The purpose of this is to assure the case is reviewed by medical personnel trained in child abuse and child neglect related examinations. The new law requires the reports on any investigation of child physical abuse or physical neglect where the alleged victim is age 5 or under the case must be referred to a CARE specialist for review. When an alleged victim of child abuse or child neglect is over age 5, the referral is optional. The details of how the referral will be made by law enforcement is not finalized, but it will likely be that law enforcement would provide the information to DCF who would then make the referral to a CARE specialist. More information will be provided as the process is finalized.</p>

<p>Childhood Sexual Abuse</p> <p>Effective 7/1/23</p> <p>HB2127 §2</p>	<p>The statute of limitations is removed for criminal charges related to childhood sexual abuse. This includes any of the following crimes committed against a person who is under the age of 18 at the time of the offense: KSA 21-5506 (indecent liberties with a child); KSA 21-21-5504(a)(3) or (4) (criminal sodomy). KSA 21-3509 (enticement of a child); KSA 21-5508 (indecent solicitation of a child); KSA 21-5510 (sexual exploitation of a child); KSA 21-5505(b) (aggravated sexual battery); KSA 21-5604(b) (aggravated incest); KSA 21-5426(b) (aggravated human trafficking, if committed for the purpose of sexual gratification of the another); KSA 21-5514 (internet trading in child pornography); or KSA 21-6422 (commercial sexual exploitation of a child). Prior statutes on those crimes also apply.</p>
<p>Cigarettes and Tobacco Products</p> <p>Effective 7/1/23</p> <p>HB2269 §3, 4, 5</p>	<p>The minimum age to possess, purchase cigarettes, electronic cigarettes, or tobacco products is changed in section 3 of the bill to 21 years of age. The violation is a smoking infraction with a fine of \$25. The penalty is found in section 4 of the bill amending KSA 79-3322 § (d). The only change from existing law is the change of age.</p> <p>In section 4, the selling, furnishing, or distributing cigarettes, electronic cigarettes, or tobacco products to a person under the age of 21 years is a class B misdemeanor with a penalty of a minimum \$200 fine. The penalty is in section 4 subsection (c) of the bill. That same penalty also applies to the crime of buying any cigarettes or tobacco product for any person under the age of 21. The only change from existing law is the change of age.</p> <p>Tobacco products is defines in KSA 79-3301 as cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes.</p>
<p>Drugs, Packaging Enticing to Child</p> <p>Effective 7/1/23</p> <p>SB174 §2</p>	<p>The definition of “possession” was repealed from the drug laws in Chapter 21, Article 57 of the Kansas Statutes. However, a definition of “possession” also is in the definition statute, KSA 21–5111 (v), that covers all criminal code statutes in Chapter 21, including Article 57. The definition in KSA 21-5111 (v) was amended in 2022 in response to case law. The definition in KSA 21-5701 (q) was left unamended and was flawed under the case law. So in 2023 they repealed the definition in KSA 21-5701, but the definition in KSA 21-5111 applies to the drug crimes as well. The definition in KSA 21-5111 (v) is: “Knowingly having joint or exclusive control over an item or knowingly keeping some item in a place where the person has some measure of access and right of control.”</p>

<p>Drugs, Manufacturing Containing Fentanyl Effective 7/1/23 SB174 §3 & 6</p>	<p>The sentencing for manufacturing a fentanyl-related controlled substance is increased by making it a DSL 1 offense for the first offense. This was a DSL 2 offense for first offense. "Fentanyl-related controlled substance" means any substance designated in K.S.A. 65-4105(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)(3)(B), or any analog thereof."</p> <p>If the sentence is for manufacturing a fentanyl-related controlled substance, the sentence is doubled and is presumed presumptive imprisonment regardless of where it falls on the sentencing grid.</p>
<p>Drugs, Placing Into Capsules or Tablets Effective 7/1/23 SB174 §2</p>	<p>The definition of Manufacture in the drug law is amended to include ". . .placing into pill or capsule form a controlled substance either directly or indirectly. . ." This applies to any illegal drug. Note the sentencing enhancements for manufacturing a fentanyl-related controlled substance covered in the previous section applies. If the drug is not a fentanyl-related controlled substance (or methamphetamine, as provided in continuing law) the sentencing enhancement does not apply and the crime is a DSL 2 offense for the first offense and a DSL 1 offense for a second and subsequent offense.</p> <p>"Fentanyl-related controlled substance" means any substance designated in K.S.A. 65-4105(b)(1), (b)(2), (b)(4), (b)(10), (b)(11), (b)(14), (b)(15), (b)(16), (b)(20), (b)(22), (b)(23), (b)(24), (b)(37), (b)(41), (b)(45), (b)(46), (b)(47), (b)(49), (b)(57), (b)(58), (b)(59), (b)(60), (b)(61), (b)(62), (b)(73), (b)(74), (b)(78), (g)(1) or (g)(2) or 65-4107(c)(1), (c)(6), (c)(9), (c)(26), (c)(28), (c)(30), (f)(3)(A) or (f)</p>
<p>Drugs, Test Strips Effective 7/1/23 SB174 §2</p>	<p>The definition of "drug paraphernalia" is amended to specifically exclude "any material used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine, or gamma hydroxybutyric acid." Ketamine and gamma hydroxybutyric acid are common date rape drugs.</p>
<p>Firearms, Criminal Discharge Effective 7/1/23 HB2010 §2 & 3</p>	<p>The crime of criminal discharge of a firearm is amended to include when the firearm is discharged at a vehicle in which there is a person present regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present.</p> <p>A special sentencing rule is created for convictions of criminal discharge of a firearm involving the reckless and unauthorized discharge of a firearm at a dwelling, building, structure, or motor vehicle. Application of the special rule requires a finding by the trier of fact that the offender knew or reasonably should have known a person was present at the locations listed above. When the person present is 14 years of age or older, the length of sentence is as provided on the sentencing grid plus 60 months. When the person present is less than 14 years of age, the sentence is as provided on the sentencing grid plus 120 months. The sentence must be served consecutive for any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.</p>

<p>Firearm, Felon in Possession</p> <p>Effective 7/1/23</p> <p>HB2010 §3</p>	<p>A special sentencing rule is created for convictions of felon in possession of a firearm when 1) The conviction of the felony leading to the prohibition to possess the firearm was as not a juvenile adjudication; 2) The weapon the offender possessed during such violation was a firearm; and 3) such firearm was used by the offender during the commission of any violent felony. In such cases, the sentence for felon in possession of a firearm must be served consecutive to any other sentence and must be presumed imprisonment regardless of where the sentence falls on the sentencing grid.</p> <p>For the purposes of this provision, violent felony is defined as: Capital murder or first - or second-degree murder; voluntary manslaughter; kidnapping, when the crime involves holding a person for ransom or as a shield or hostage, or aggravated kidnapping; Aggravated assault, when committed with a deadly weapon, or aggravated assault of a law enforcement officer, when committed with a deadly weapon; aggravated battery, when the conduct causes great bodily harm or disfigurement, or when the conduct causes bodily harm that could cause great bodily harm, disfigurement or death or aggravated battery against a law enforcement officer, unless the conduct involves bodily harm caused with a motor vehicle; mistreatment of a dependent adult or mistreatment of an elder person, when the conduct involves infliction of physical injury or unreasonable confinement or punishment; rape; aggravated criminal sodomy; abuse of a child, unless the acts constituting the crime are committed recklessly; any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled substances; treason; criminal discharge of a firearm in the presence of another human being; fleeing or attempting to elude a police officer; any felony that includes the domestic violence designation, as determined by the trier of fact.</p>
<p>Human Smuggling</p> <p>Effective 7/1/23</p> <p>HB2350</p>	<p>A new crime of human smuggling is created. Human smuggling is defined as “intentionally transporting, harboring or concealing an individual into or within Kansas when the person: (A) Knows, or should have known, that the individual is entering into or remaining in the United States illegally; (B) benefits financially or receives anything of value; and (C) knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.”</p> <p>Aggravated human smuggling is defined as “human smuggling that: (A) Is committed using a deadly weapon or by threat of use of a deadly weapon; (B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or (C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes, or human trafficking as defined in K.S.A. 21-5426, or causes the person to commit selling sexual relations as defined in K.S.A. 21-6419.”</p> <p>Human smuggling is a SL5 person felony. Aggravated human smuggling is a SL3 person felony.</p>

<p>Interference With Law Enforcement</p> <p>Effective 7/1/23</p> <p>SB174 §5</p>	<p>The statute on Interference with Law Enforcement is amended to create a higher penalty for fleeing from an officer other than by operating a motor vehicle. This change was made to address the higher risk to the public, to the officer, and to the offender when fleeing from officers on foot. The language would include other sorts of fleeing such as on a bicycle or other device. The sentencing enhancement requires two things to occur: 1) the officer must have reason to detain the offender as provided in KSA 22-2402 (reasonable belief the person is committing, has committed or is about to commit a crime); and 2) the officer gives the person visual or audible signal to stop.</p> <p>The penalty increase is when the person is fleeing from a circumstance involving a felony. It raises the penalty from a SL9 nonperson felony to a SL 7 nonperson felony. It is a SL5 nonperson felony if the person discharges or uses as firearm while fleeing. There is no change in the penalty if the person is fleeing from a circumstance involving a misdemeanor crime or civil case.</p>
<p>Jails</p> <p>Effective 7/1/23</p> <p>SB228</p>	<p>Revisions of most of Chapter 19, Article 19 of the statutes which hadn't been revised since the early 1900's. Most important amendments are:</p> <ol style="list-style-type: none"> 1. Changes to KSA 19-1903 dealing with separation of sexes is in section 3 of the bill (page 2) found at the link to the left. 2. Changes to KSA 19-1930 dealing with pre-booking medical clearances and when they are required are in section 12 of the bill (page 4-7) found at the link to the left.
<p>KP&F, DROP</p> <p>Effective 4/27/23</p> <p>HB2196 §2 & 3</p>	<p>All members of Kansas Police and Fire Retirement System are now eligible for the Deferred Retirement Option Program (DROP). The program is optional for each KP&F employer and each employee who is a KP&F member eligible to retire.</p> <p>This option allows the KP&F employer and KP&F employee to agree to entering the program. It does not require the employer to participate in the program. The program allows the employee to continue to work for 3, 4, or 5 years. The employees retirement benefit is set based on the final average salary and years of service at the time of entering the agreement. The employee continues to get their salary while working plus any raises and benefits, but those do not later alter the retirement benefit. During this period the retirement benefits are held in an account held by KPERS. When the employee actually retires, the employee receives all of the funds</p>

<p>Tracking Devices, Stalking, Protection or Restraining Orders</p> <p>Effective 7/1/23</p> <p>SB217 §1-8</p>	<p>The stalking statute is amended by adding the “utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns” by the offender to the list of acts that can be used to show a “course of conduct.” There is no change to the penalties or the core elements of the crime.</p> <p>Statutes providing for protection or restraining orders were amended to make it clear the use of an electronic tracking system or tracking information to determine the protected person's location, movement or travel patterns of a protected person is a violation of the order. Penalties for violations are not changed. The term “electronic tracking system” is intended to encompass all devices that provide tracking data including cell phones, air tags or similar devices, or any other device designed to provide location data. The phrase “acquiring tracking information” is included to cover a person who gets someone else to actually gather the data then provide it to them. It only applies to tracking the protected person when the order is in place when the tracking is used by the defendant of the order.</p>
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